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C O N F I D E N T I A L SECTION 01 OF 03 BANGKOK 002580

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SUBJECT: LEGISLATURE PRESIDENT ON CONSTITUTION, FOREIGN
BUSINESS ACT

REF: BANGKOK 2071 (FBA SENT TO LEGISLATURE)

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Classified By: Ambassador Ralph L. Boyce, reason: 1.4 (b) and (d).

SUMMARY

11. (C) Legislature President Meechai Ruchupan told the Ambassador that the public held valid concerns about provisions of the draft constitution. The legislature would soon produce its official comments on the draft. Regardless of the content, the draft's fate in the upcoming referendum would likely depend on the extent of opposition by political figures able to influence voter behavior. If the draft were to be voted down, elections would necessarily slip to 2008, as the authorities would need time to produce a new draft, which would not be subject to a referendum. The Ambassador stressed USG interest in elections this year, and also noted other developments that would be of concern. Meechai and an accompanying colleague predicted amendment of the Foreign Business Act this year, with a possibility of grandfathering some rights of existing ventures. End Summary.

CONSTITUTIONAL PROVISIONS

12. (C) National Legislative Assembly (NLA) President Meechai Ruchupan told the Ambassador during a May 7 lunch that numerous provisions of the draft constitution appeared controversial. Unfortunately, Meechai noted, those who supported the current draft tended to remain quiet, while only those who disagreed with its contents spoke up; the tone of public discourse was, therefore, largely negative. Much criticism had been focused on the proposed Senate, which would consist of members selected by a committee of high-ranking officials. (Note: Such selection would be consistent with Thai practice prior to 1997; from 1997 until 2006, the Senate consisted of elected representatives who were ostensibly nonpartisan but, in fact, aligned themselves with political parties. End Note.)

13. (C) Meechai noted that some were uncomfortable with the prospect of an appointed Senate exercising the same lawmaking authority as the previous elected Senate; an appointed Senate might be easier to accept if its authority were reduced. Alternatively, people might be more willing to accept an appointed Senate if there were some (undetermined) mechanism

allowing the electorate to influence the appointment process.

The Ambassador asked whether there might be a provision for a mixed Senate, consisting of some appointed and some elected members. Meechai noted some previous Thai legislatures had such a composition, but this had generally promoted divisions between the two classes of legislators.

14. (C) Another provision provoking controversy would establish a crisis committee. Meechai said this committee's powers and role remained unclear (especially the extent to which it would take on a role currently played by the courts), so people viewed this committee warily. While establishing a new system of multi-member electoral districts for the House of Representatives, the constitution left unclear how many votes voters could cast -- that is, if a district were to be represented by three legislators, would the voters be able to vote for three people, or just one?

15. (C) Meechai said that Buddhist organizations had hoped for years that they would be able to establish greater state support for Buddhism's role in Thailand. Thus, the pressure to establish Buddhism as a state religion was predictable. The Ambassador noted the current circumstances, including an active separatist insurgency in the predominantly Muslim southern provinces, might not prove conducive to such a move. He asked whether Thailand, like Indonesia, might be able to provide official recognition of more than one religion. Meechai said such a solution would not be tenable; until the present day, no religion other than Buddhism had featured in Thai constitutions.

CONSTITUTIONAL PROCESSES

16. (C) The Ambassador asked about the NLA's role in providing its views on the draft constitution to the Constitution

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Drafting Committee. Meechai explained that the NLA would take a more comprehensive approach than most other state institutions, which would just focus on their areas of interest. The NLA, by contrast, would offer comments on the draft, from beginning to end, just as if it were a bill. An NLA committee, chaired by constitutional scholar Wissanu Krea-ngam, was currently leading this process.

17. (C) Meechai conceded that few people knew the details of the draft constitution's provisions. The high-ranking officials who studied and commented on the text would have little influence when the draft would be up for vote in a referendum. At that time, Thai voters, who tend not to delve into finer points of law, would look to local leaders for guidance. The referendum might well become a vehicle for those opposed to the current government leaders to attack them politically. Some people were already trying to stir up trouble, Meechai noted. And if the constitution were to fail in the referendum, the Council for National Security (CNS) and the Government would have 30 days to pull together a new charter. This would necessarily delay the next election until sometime in 2008.

18. (C) This prospect was worrisome, the Ambassador said. The USG felt strongly that elections should take place this year. Parenthetically, the Ambassador also noted that we would look very negatively on any sort of "re-coup" that might upend the movement toward returning to democracy. Even short of a military seizure of power, the USG would view it as inappropriate for a sitting member of the CNS to become the Prime Minister. Additionally, we would oppose any application of the government's emergency decree in areas (namely Bangkok) where there was no evidence such a move was warranted. (Comment: Meechai enjoys access to and influence with CNS figures, so we believe it was useful to stress these points with him. End Comment.)

19. (C) Meechai said that, to ensure a smooth transition, the

CNS should mobilize an effective public relations campaign on the constitutional referendum. The Ambassador said the CNS had not yet shown an aptitude for public relations and had not used television broadcasts to get its message out. Meechai noted that personal contact with influential figures at the local level would prove more valuable than a television campaign.

VIEW OF SURAYUD

¶10. (C) The Ambassador solicited Meechai's view of Prime Minister Surayud Chulanont. Meechai said he felt badly for Surayud, whom he characterized as an honest man who lacked the support of an effective cabinet. Meechai felt Surayud might have set an overly ambitious agenda for himself, by taking on such difficult issues as the southern insurgency and police reform.

FOREIGN BUSINESS ACT

¶11. (C) The Ambassador also raised the NLA's current processing of the draft amendment to the Foreign Business Act (FBA) (reftel). The draft certainly affected other countries interests more than those of the U.S., the Ambassador acknowledged, but it nevertheless could harm the business climate. Foreign corporations might see that Thailand was changing its attitude toward foreign investment. The Ambassador encouraged the NLA to study the likely consequences before proceeding with the FBA.

¶12. (C) Commerce Ministry Permanent Secretary (and NLA member) Karun Kittisataporn, who accompanied Meechai to the lunch, said it became necessary to proceed with the FBA amendment after the government discovered the wrongful use of cutout corporations ("nominees") by deposed Prime Minister Thaksin Shinawatra. Since then, it had become clear that the abuses were endemic. The Thais were actually being generous by suggesting they would only limit foreign voting rights, as the WTO allowed Thailand to impose stricter limitations. Karun said it was possible that the NLA would grandfather some foreign businesses to minimize the disruption to existing investors.

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¶13. (C) The Ambassador asked whether the FBA amendment, in whatever form, would pass this year. Meechai said it would, as the NLA would have to pass the bill prior to the expiration of its term, which would be this year. Meechai said there would be no public hearings on the FBA amendment before its second reading. He said "seminars" were possible to explain the bill's provisions to affected businesses, but only after the bill passes.

COMMENT

¶14. (C) We tend to agree with Meechai that the constitution's fate will depend not so much on the fine points of its provisions, but rather on how political machines mobilize voters. Meechai and his colleagues did not appear concerned about the prospects of the FBA amendment to further damage Thailand's investment climate, our entreaties to the contrary notwithstanding.

BOYCE